

does not include spirits produced from petroleum, natural gas, or coal.

*This chapter.* Title 27, Code of Federal Regulations, Chapter I [27 CFR Chapter I].

*Transfer in bond.* The transfer of spirits between alcohol fuel plants or the transfer of spirits to or from a distilled spirits plant qualified under 26 U.S.C. 5171 and an alcohol fuel plant.

*Type of plant.* The following three types of alcohol fuel plants are recognized in this subpart:

(a) *Small plant.* An alcohol fuel plant which produces (including receipts) not more than 10,000 proof gallons of spirits per calendar year.

(b) *Medium plant.* An alcohol fuel plant which produces (including receipts) more than 10,000 and not more than 500,000 proof gallons of spirits per calendar year.

(c) *Large plant.* An alcohol fuel plant which produces (including receipts) more than 500,000 proof gallons of spirits per calendar year.

*U.S.C.* The United States Code.

#### PERMITS

##### § 19.910 Application for permit required.

Any person wishing to establish an alcohol fuel plant shall first make application for and obtain an alcohol fuel producer's permit. The application for a permit will be on Form 5110.74. The application, in duplicate, will be submitted to the regional director (compliance). The description of stills on the approved application constitutes registration of stills as required by 27 CFR 196.45. Alcohol fuel producers' permits are continuing unless automatically terminated under § 19.920, suspended or revoked as provided in § 19.950, or voluntarily surrendered.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1355, as amended (26 U.S.C. 5179); sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

##### § 19.911 Criteria for issuance of permit.

In general, an alcohol fuel producer's permit will be issued to any person who completes the required application for permit and who furnishes the required bond (if any). However, the regional director (compliance) may institute pro-

ceedings for the denial of the application, if the regional director (compliance) determines that:

(a) The applicant (including, in the case of a corporation, any officer, director, or principal stockholder, and in the case of a partnership, a partner) is, by reason of business experience, financial standing, or trade connections, not likely to maintain operations in compliance with 26 U.S.C. Chapter 51, or regulations issued thereunder; or

(b) The applicant has failed to disclose any material information required, or has made any false statement, as to any material fact, in connection with the application; or

(c) The premises on which the applicant proposes to conduct the operations are not adequate to protect the revenue. The procedures applicable to denial of applications are set forth in 27 CFR Part 71.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5271); sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

##### § 19.912 Small plants.

Persons wishing to establish a small plant shall apply for a permit as provided in this section. Except as provided in paragraph (c) of § 19.913, operations may not be commenced until the permit has been issued.

(a) *Application for permit.* The application (Form 5110.74) shall be submitted to the regional director (compliance) and shall set forth the following information:

(1) Name and mailing address of the applicant, and the location of the alcohol fuel plant if not apparent from the mailing address;

(2) A diagram of the plant premises and a statement as to the ownership of the premises (if the premises are not owned by the proprietor, the owner's consent to access by ATF officers must be furnished);

(3) A description of all stills and a statement of their maximum capacity;

(4) The materials from which spirits will be produced; and

(5) A description of the security measures to be used to protect premises, buildings and equipment where spirits are produced, processed, and stored.

### § 19.913

(b) *Bond.* No bond is required for small plants.

(Sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

### § 19.913 Action on applications to establish small plants.

(a) *Receipt by the regional director (compliance)*—(1) *Notice of receipt.* Within 15 days of receipt of the application, the regional director (compliance) shall send a written notice of receipt to the applicant. The notice will include a statement as to whether the application meets the requirements of § 19.912. If the application does not meet those requirements, the application will be returned and a new 15-day period will commence upon receipt by the regional director (compliance) of the amended or corrected application.

(2) *Failure to give notice.* If the required notice of receipt is not sent, and the applicant has a receipt indicating that the regional director (compliance) has received the application, the 45-day period provided for in paragraphs (b) and (c) of this section will commence on the fifteenth day after the date the regional director (compliance) received the application.

(3) *Limitation.* The provisions of subparagraphs (1) and (2) of this section apply only to:

(i) The first application submitted with respect to any one small plant in any calendar quarter; and

(ii) An amended or corrected first application.

(b) *Determination by the regional director (compliance).* Within 45 days from the date the regional director (compliance) sent the applicant a notice of receipt of a completed application, the regional director (compliance) shall either (1) issue the permit, or (2) give notice in writing to the applicant, stating in detail the reason that a permit will not be issued. Denial of an application will not prejudice any further application for a permit made by the same applicant.

(c) *Presumption of approval.* If, within 45 days from the date of the notice to the applicant of receipt of a completed application, the regional director (compliance) has not notified the applicant of issuance of the permit or denial of the application, the application shall

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be deemed to have been approved and the applicant may proceed if a permit had been issued.

(Sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

### § 19.914 Medium plants.

Any person wishing to establish a medium plant shall make application for and obtain in alcohol fuel producer's permit. Operations may not be commenced until the application has been approved and the permit issued.

(a) *Application for permit.* The application (Form 5110.74) shall be submitted to the regional director (compliance) and shall set forth the following information:

(1) The information required by § 19.912 (a);

(2) Statement of maximum total proof gallons of spirits that will be produced and received during a calendar year;

(3) Information identifying the principal persons involved in the business and a statement as to whether the applicant or any such person has ever been convicted of a felony or misdemeanor under Federal or State law; and,

(4) Statement of the amount of funds invested in the business and the source of those funds.

(b) *Bond.* A bond of sufficient penal sum, as prescribed in § 19.957, is required. The bond must be submitted on Form 5110.56 and approved before a permit may be issued.

(Sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

### § 19.915 Large plants.

Any person wishing to establish a large plant shall make application for and obtain an alcohol fuel producer's permit. Operations may not be commenced until the application has been approved and the permit issued.

(a) *Application for permit.* The application (Form 5110.74) shall be submitted to the regional director (compliance) and shall set forth the following information:

(1) The information required by § 19.912(a);